IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12425 of 2004

Between:

Vemuluru Gram Panchayat, Vemuluru, Kovvur Mandal,

W.G. District, rep. by its Matta Satyanarayana, Sarparch,

S/o. M. Challaiah, Aged 45 years,
R/o. Kovvur Mandal, W.G. District.

..... PETITIONER

AND

1 The Commissioner of Endowments Department, A.P. Hyderabad.
2 Officer of the Assistant Commissioner, Endowments Department,

W.G. District, Eluru.
3 The District Collector, West Godavari District, Eluru.
4 Sri Anantha Bhogeswara Swamy Temple,

rep. by its Person-in-Management Kumaradavam (V),
Kovvur Mandal, W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction, declaring the action of the 1st respondent Commissioner of Endowments, A.P. Hyderabad in allotting the land of an extent of Ac.7-73 cents in R.S. Nos. 212/3 and 218/3 of Gemuluru Village, Kovvur Mandal, W.G. District to a Agricultural Research Station, Kovvur by private negotiation, in D.Dis. No.L3/47500/03, dt. 26-2-2004 instead of handing over the same to District Collector 3rd respondent for providing house sites to Weaker Sections is arbitrary, illegal and wholly without jurisdiction and consequently order stay of all further proceeding and to pass such other order or

orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.C.S.SASTRY

Counsel for the Respondent NoS.1 to 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.4: SMT. N.INDRANI.

The Court at the admission stage made the following :

ORDER:

The petitioner seeks a writ of Mandamus declaring the action of the first respondent-Commissioner of Endowments Department in allotting the land of an extent of Acs.7.73 cents in R.S.Nos.212/3 and 218/3 of Vemuluru village, Kovvur Mandal, West Godavari District to an Agricultural Research Station, Kovvur by private negotiation vide proceedings dated 26-02-2004 as arbitrary and illegal.

Petitioner is the Gram Panchayat, Vemuluru. It is stated that Acs.11.48 cents of land in R.S.No.212/3 and 218/3 of Vemuluru village, Kovvur Mandal is the endowed property belonging to the 4th respondent-Temple. In the year 1989, when proceedings were initiated under the Land Acquisition Act to acquire the said land for the public purpose of providing house sites to the weaker sections of the Vemuluru village invoking urgency clause, the said proceedings were challenged by one Seeni Narayana Murthy, the tenant of the temple lands by filing W.P.No.5151 of 1999. Pending the writ petition, since no interim orders were granted, the petitioner therein filed Writ Appeal No.1587 of 1999. A Division Bench, while hearing the said writ appeal has also taken up the main W.P.No.5151 of 1999 and disposed of both the matters together. The Division Bench held that there is no justification to dispense with the enquiry under Sec.5-A and therefore permitted the tenant to raise all the objections under Sec.5-A of the Land Acquisition Act within 30 days and thereafter the respondents were directed to complete the acquisition proceedings in accordance with law. Thereafter, it appears that the said tenant relinquished his rights to an extent of Acs.7.73 cents out of Acs.11.48 cents on 13-02-2003. The grievance of the petitioner is that the respondents 1 and 2 in spite of apprising the

District Collector of the fact that the said land was initially sought to be acquired for allotment of house sites to weaker sections, issued the impugned order dated 26-02-2004 leasing out the said extent of Acs.7.73 cents to Agricultural Research Station, Kovvur through private negotiation. Hence, this writ petition.

The learned counsel for the petitioner vehemently contends that the action of the first respondent in allotting the land in question through private negotiation to the Agricultural Research Station, Kovvur while the acquisition proceedings are still pending, is arbitrary and illegal and without jurisdiction. He contends that even if the land in question is not acquired by the Government, the lease hold rights of the land in question ought to have been put to public auction, but, the same cannot be leased out through private negotiation.

On behalf of the 4th respondent-Temple, a counter affidavit has been filed by the Manager, denying all the allegations made by petitioner. It is further stated that subsequent to the disposal of W.P.No.5151 of 1999 along with W.A.No.1587 of 1999, no further steps have been taken under the Land Acquisition Act pursuant to the notification dated 03-02-1999 and the said proceedings stood lapsed due to efflux of time under Section 11-A of the Land Acquisition Act. Consequently, the 4th respondent conducted auction of the lease hold rights in respect of the said land and one Sri.B.Narayanamurthy was the highest bidder. However, subsequently, he relinquished his rights in respect of part of the land. The said fact was informed to the authorities on 25-02-2003 and thereafter, the 4th respondent granted lease to the Agricultural Research Station by private negotiation and the same was duly approved by the Commissioner of Endowments. The possession was also delivered to the Agricultural Research Station on 08-07-2004 and therefore, the writ petition is devoid of any merit and is liable to be dismissed.

I have heard the learned counsel for both the parties and perused the material on record.

On the basis of the material on record, it is clear that the proceedings under the Land Acquisition Act were initiated long back in the year 1999 and since no further steps were taken, the said proceedings stood lapsed. Thus the notification dated 03.02.1999 issued under Sec.4(1) of the Land Acquisition Act stood extinguished and neither the land vests with the Government nor the petitioner-Gram Panchayat can claim any right in respect of the said land on the ground that the same was

sought to be acquired for the purpose of providing house sites to the weaker sections of the village.

Now, coming to the allegation that the action of the 4th respondent in leasing out the land by private negotiations is contrary to law, it is to be noted that under Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 there is no prohibition of grant of lease by private negotiations. On the other hand as per Rule 7(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules 2003 made in exercise of powers conferred under Section 82 read with Section 153 of the Act the competent authority is empowered to permit the lease of any property otherwise then by public auction if he is satisfied that the suggested procedure is necessary and in the interest of the institution or endowment. The counter of the fourth respondent shows that the lease granted to the Agricultural Research Station by private negotiations has been duly approved by the Commissioner who is the competent authority under Sec.82 of the Endowments Act. Thus, the procedure followed by the 4th respondent is in conformity with the statutory provisions.

For the afore said reasons, I do not find any justifiable reason to declare the action of the 4th respondent-Temple as arbitrary or illegal. The writ petition is devoid of merit and accordingly, dismissed. No costs.

_____

11-08-2004

vs/mdaa

To

1 The Commissioner of Endowments Department, A.P. Hyderabad.
2 The Officer of the Assistant Commissioner, Endowments Department, W.G. District, Eluru.
3 The District Collector, West Godavari District, Eluru.
4 The Person-in-Management, Sri Anantha Bhogeswara Swamy Temple, Kumaradavam (V), Kovvur Mandal, W.G. District.

5 Two CCs to the G.P for Endowments, High Court Buildings, Hyderabad.(O.U.T)

6 Two CD copies.

THE HON'BLE MS JUSTICE G.ROHINI

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO : 12425 of 2004

Dated: 11-08-2004